

TENTATIVE RULINGS for CIVIL LAW and MOTION
September 24, 2009

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6942

TENTATIVE RULING

Case: **Chairez v. Minaberry**

Case No. CV PM 09-175

Hearing Date: **September 24, 2009** **Department Fifteen** **9:00 a.m.**

The demurrer on the grounds that the plaintiff cannot state a bad faith claim against State Farm Mutual Automobile Insurance Company ("State Farm") and the plaintiff failed to attach a copy of the alleged contract or allege the terms of such contract is **OVERRULED**. The first amended complaint does not allege a bad faith or breach of contract cause of action. The Court notes that, contrary to the assertion in the plaintiff's opposition brief, the first amended complaint does not allege a negligence cause of action.

The demurrer based on misjoinder is **SUSTAINED WITHOUT LEAVE TO AMEND**. (*Royal Globe Ins. Co. v. Superior Court of Butte County* (1979) 23 Cal.3d 880; *Geraci v. United Services Automobile Assoc.* (1987) 188 Cal.App.3d 1245.)

The demurrer on the ground that the first amended complaint fails to plead fraud with sufficient particularity is **SUSTAINED WITH LEAVE TO AMEND**. (*Lazar v. Superior Court of Los Angeles County* (1996) 12 Cal.4th 631.)

The motion to strike is **GRANTED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 436, subd. (a).) The first amended complaint fails to allege any facts showing oppression, fraud or malice. (Civ. Code, § 3294.)

Plaintiff must file her second amended complaint **by no later than October 14, 2009**.

If no hearing is requested, the tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

Case: **In Re Matter of Jacyi Vieth**
Case No. CV P2 09-130

Hearing Date: **September 24, 2009** **Department Fifteen** **9:00 a.m.**

The petitioner and the minor are directed to appear or to show good cause why the petitioner and minor should not be required to appear. (Cal. Rules of Court, rule 7.952.) If the petitioner and the minor choose to show good cause, they should do so by filing of a declaration before the hearing setting forth the facts supporting good cause. If the parties fail to appear at the hearing and the court has not excused their personal appearance, the petition will be denied without prejudice. No request for a hearing is required.

TENTATIVE RULING

Case: **People v. \$1,820.00 (Lisa Elaine Casal)**
Case No. CV PT 09-2270

Hearing Date: **September 24, 2009** **Department Fifteen** **9:00 a.m.**

The People are directed to appear and advise the Court of the related criminal action and whether they intend to file a petition for forfeiture. A judgment of forfeiture against the claimant requires, as a condition precedent thereto, that a defendant be convicted in an underlying or related criminal action of an offense specified in section 11470, subdivision (f) which offense occurred within five years of the seizure of the property subject to forfeiture or within five years of the notice of intent to seek forfeiture. (Health and Safety Code, § 11488.4, subd. (i)(3).)

TENTATIVE RULING

Case: **People v. \$3,800.00 (Jeremy Hall)**
Case No. CV PT 09-2285

Hearing Date: **September 24, 2009** **Department Fifteen** **9:00 a.m.**

The People are directed to appear and advise the Court if Yolo Superior Court Case No. CR F 09-4027 is the related criminal action and whether they intend to file a petition for forfeiture. A judgment of forfeiture against the claimant requires, as a condition precedent thereto, that a defendant be convicted in an underlying or related criminal action of an offense specified in section 11470, subdivision (f) which offense occurred within five years of the seizure of the property subject to forfeiture or within five years of the notice of intent to seek forfeiture. (Health and Safety Code, § 11488.4, subd. (i)(3).) This matter must be tried in conjunction with the related criminal action. (Health and Safety Code, § 11488.4, subds. (i)(3) and (i)(5).)

TENTATIVE RULING

Case: **People v. \$1,006.00 (Kellen Schloredt)**
Case No. CV PT 09-253

Hearing Date: **September 24, 2009** **Department Fifteen** **9:00 a.m.**

The People are directed to appear and advise the Court of the related criminal action. There are a number of pending criminal matters involving the claimant. A judgment of forfeiture against

the claimant requires, as a condition precedent thereto, that a defendant be convicted in an underlying or related criminal action of an offense specified in section 11470, subdivision (f) which offense occurred within five years of the seizure of the property subject to forfeiture or within five years of the notice of intent to seek forfeiture. (Health and Safety Code, § 11488.4, subd. (i)(3).) This matter must be tried in conjunction with the related criminal action. (Health and Safety Code, § 11488.4, subds. (i)(3) and (i)(5).)